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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/802,869

03/18/2004

Hiraku Murayama

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EXAMINER

HOEKSTRA, JEFFREY GERBEN

ART UNIT

PAPER NUMBER

3736

NOTIFICATION DATE

DELIVERY MODE

06/06/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/802,869	<b>Applicant(s)</b> MURAYAMA ET AL.	
	<b>Examiner</b> JEFFREY G. HOEKSTRA	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3,6-9,11 and 15-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,10,12-14 and 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Notice of Amendment***

1. In response to the amendment filed on 02/28/2008, amended claim(s) 1, 3, 12, 13, and 14, and withdrawn claim(s) 3, 6-9, 11, and 15-25 is/are acknowledged. The current rejections of the claim(s) 1, 2, 4, 5, 9, 10, 12-14, and 26-32 is/are *withdrawn*. The following new and reiterated grounds of rejection are set forth:

### ***Election/Restrictions***

2. This application contains claims 3, 6-9, 11, and 15-25 drawn to an invention nonelected with traverse in the reply filed on 07/18/2007. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 2, 4, 5, 10, 12-14, and 26-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Skujins et al. (US 2003/0069520 A1, hereinafter Skujins).

6. For claims 1, 4, 5, 10, 12-14, and 26-32, Skujins discloses a guide wire (10), comprising:

- a distal end side portion (as best seen as the portion of element 16 extending off the right-side of Figures 1-3) having a proximal end and formed of a first metallic material comprising a Ni-Ti based alloy (paragraph 15);
- a proximal end side portion (as best seen as the portion of element 14 extending off the left-side of Figures 1-3) having a distal end and formed of a second metallic material comprising stainless steel (paragraph 14), wherein stainless steel is inherently higher in rigidity than a Ni-Ti based alloy and thus said proximal end side portion is higher in rigidity than said distal end side portion (paragraphs 14-15); and
- an intermediate portion (20) provided between said distal end side portion and said proximal end side portion (as best seen in Figures 1-3), said intermediate portion being a cylindrical filamentous portion having a circular cross-section and being a thin wire (paragraphs 13-15), said intermediate portion having a proximal end and a distal end (as best seen in Figures 1-3), wherein a distal end (16) of said intermediate portion is formed of said first metallic material and a proximal end (14) of said intermediate portion is formed of said second metallic material (paragraphs 14-15), and said intermediate portion being (20) formed of a metallic material mixture (paragraphs 12 and 21-27) containing said first metallic material and said second metallic material (paragraphs 16-21),
- wherein said intermediate portion comprises an integral gradient composition portion (24/26) (paragraphs 16-25 and 27) (as best seen in Figure 4) in which a weight ratio

of said first metallic material in the metallic material mixture decreases from the distal end side portion toward the proximal end side portion and a weight ratio of said second metallic material increases along the length thereof from the distal end side portion toward the proximal end side portion (paragraphs 16-25 and 27) so as to define a nonuniform composition along a length of said metallic material mixture (as best seen in Figure 4),

- wherein said distal end of said intermediate portion is joined to a terminal end of said proximal end of said distal end side portion by welding (paragraphs 27-28) (as best seen in Figure 4) and said proximal end of said intermediate portion is joined to a terminal end of said distal end of said proximal end side portion by one of welding, soldering or brazing (paragraphs 27-28) (as best seen in Figure 4) such that said distal end side portion and said proximal end side portion do not overlap (as best seen in Figure 4),
- wherein said intermediate portion is capable of being formed by a sintering of a first powder of the first metallic material and a second powder of the second metallic material

7. For claim 2, Skujins discloses a guide wire, wherein the weight ratio of said second metallic material in the metallic material mixture in said gradient physical property portion increases stepwise (paragraph 17) from the distal end side toward the proximal end side (paragraphs 16-25).

8. For claims 30-32, Skujins discloses a guide wire, wherein said intermediate portion is capable of being formed by sintering a metallic material mixture comprising a powder of said first metallic material and a powder of said second metallic material.

***Response to Arguments***

9. Applicant's arguments filed 02/28/2008 with respect to claims 1, 4, 5, 10, 12-14, and 26-32 have been considered but are moot in view of the new ground(s) of rejection, wherein the new ground(s) of rejection relies upon a different interpretation of previously applied prior art.

10. However in the interest of advancing prosecution and in lieu of the use of previously applied prior art, Applicant's arguments filed 02/28/2008 have been fully considered but they are not persuasive. Applicant argues the anticipatory rejection of the claims under Skujins, specifically arguing Skujins fails to disclose, teach, and/or fairly suggest a guidewire having an integral intermediate portion provided between said distal end side portion and said proximal end side portion which is formed of a metallic material mixture of said first metallic material and said second metallic material, or which has an integral portion formed of a metallic material mixture containing said first metallic material and said second metallic material, wherein the integral intermediate portion or integral portion thereof has a gradient composition or nonuniform composition defined by a weight ratio of said first metallic material in the metallic material mixture decreasing and a weight ratio of said second metallic material in the metallic material mixture increasing along the length thereof from the distal end side portion toward the proximal end side portion, wherein the said intermediate portion is joined to a terminal

end of said proximal end of said distal end side portion and said proximal end of said intermediate portion is joined to a terminal end of said distal end of said proximal end side portion, and wherein the distal end of said intermediate portion is joined to said distal end side portion and said proximal end of said intermediate portion is joined to said proximal end side portion such that said proximal end of said distal end side portion and said distal end of said proximal end side portion do not overlap.

11. The Examiner disagrees, maintains the rejection as set forth and reiterated above, and in response notes the following:

12. As set forth and cited above, Skujins is expressly concerned with configuring an intermediate joining portion of a guidewire, where two dissimilar metals are joined, with a metallic material mixture comprising an integral gradient composition portion along the length thereof wherein two ends do not overlap (as best seen in Figure 4) (paragraphs 16-25 and 27).

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY G. HOEKSTRA whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.H./

Jeff Hoekstra

Examiner, Art Unit 3736



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/Max Hindenburg/  
Supervisory Patent Examiner, Art Unit 3736